

# Marion County Election Board Meeting

Monday, October 20, 2014 | 9AM

Election Service Center, 3737 E. Washington St.

Board Members Present: Chairman Cody Kendall; Vice Chairman Vincent Perez; Clerk Elizabeth L. White; Director of Elections Angie Nussmeyer

Others Present: Andy Mallon, Election Board Attorney; David Lichtenberger, OCC Attorney; Patrick Becker; Janet Buchanan; Jeremy Burton; Will French; Erin Kelley; Keith McGinnis; Todd Mullin; Paul Smith; Jenny Troutman; Michael Weiseman

## Agenda

- I. **Call to Order:** Chairman Kendall called the meeting to order.
- II. **Commence Public Test of Voting Equipment:** Madam Clerk reviewed the process to conduct the public test of the voting equipment. The test for the 2014 General Election included a sample of 20 precincts and 28 ballot styles. Clerk White made a motion to begin the public test and Vice Chairman Perez seconded it. The motion passed unanimously.
- III. **Ratification of September 11, 2014 Meeting Minutes:** Madam Clerk motioned to approve the minutes. Vice Chairman Perez seconded. It passed unanimously.
- IV. **Friend of Democracy:** Madam Clerk presented an award to Paul Smith, who has served as a poll worker for more than twenty years. He also assisted the Board in finding its new warehouse space and negotiated the contract. Mr. Smith recently left the city of Indianapolis after 22 years of service.
- V. **Recess.** Clerk White asked the Board for a short recess. Vice Chairman Perez seconded it. The motion passed unanimously.
- VI. **Discussion and/or Determination of 2012 *Mulholland* Litigation:** Chairman Kendall reconvened the meeting and notified the Board an agreement had been reached in the Mulholland matter. Board Attorney Andy Mallon reviewed the terms of the agreement, which included attorney fees in the amount of \$80,000.00 to be awarded to the American Civil Liberties Union (ACLU) and \$326.56 to Mr. Mullholland. Clerk White stated the Board will no longer enforce the slating statute as a result of the settlement agreement.

To settle the matter, Mr. Mallon asked the Board to agree to the stipulation in the agreement to no longer enforce Indiana Code 3-14-1-2(a)(2) and (3) and vacate

September 13, 2012 Election Board order to investigate the issues involving Mr. Mullholland's campaign during the May 8, 2012 Primary Election and agree not to hold further hearings concerning the 2012 Primary Election and Mr. Mulholland. Chairman Kendall motioned to agree to the stipulation to enter agreed judgment; Vice Chairman Perez seconded it. The motion passed 2-0-1 with Clerk White abstaining. Additionally, Mr. Mallon asked the Board to adopt the settlement agreement. Chairman Kendall made a motion to agree to the settlement terms and Vice Chairman Perez seconded it. The motion passed 2-0-1 with Clerk White abstaining.

- VII. Voting Equipment Update:** Director Nussmeyer stated that there was a problem with the coding on the early voting iVotronic touchscreen machines, which only impacted the Lawrence Township Trustee race. When a voter used the straight party option, the iVotronic did not automatically select the partisan candidate in the Lawrence Township Trustee contest. Voters could mark their candidate during the ballot review and correct the issue, however.

Janet Buchanan, project manager for RBM – the county's voting equipment service provider, stated that this race had not been successfully attached to the proper coding channels after changes were made to include a write-in candidate for this race. RBM was able to make changes to the coding to correct the issue on the early voting iVotronics as well as the voting equipment used on Election Day.

Staff found thirty-five (35) voters in Lawrence Township used the iVotronic during early voting; the thirty-fifth voter notified the staff of the error and was able to correct his ballot before casting it. All individuals affected by the coding issue have been called by staff and letters were mailed, if needed. Voters were given the opportunity to vote in their precinct on Election Day, cast their vote by mail, or return to early vote. Director Nussmeyer informed the Board that both major party candidates had been contacted and invited to come to the Election Board Service Center to view the equipment – one with the improper coding and one with the correct coding.

- VIII. Absentee Ballot Challenge Procedures:** In each election, the Board must review the absentee ballot challenge procedures adopted by a 2009 Consent Decree. Political parties must submit the names of their challengers to the Election Board no later than seventy-two (72) hours before Election Day. Only appointed challengers can challenge absentee voters at the precinct on Election Day. Clerk White reminded the Board ballots are no longer sent out to the precincts due to the central count; rather, a list of absentee voter names will be delivered by bi-partisan teams.

- IX. Absentee Voter Board Appointments:** Madam Clerk reminded the Board of the legislation requiring Marion County to centrally count its absentee ballots, which requires the two major political parties to make additional Election Day appointments for couriers and counters. The deadline for the parties to make appointments has passed. The

Marion County Democratic Party has filled the 52 courier and 65 counter positions. As of October 14, the Marion County Republican Party has submitted 19 counter names. Due to the lack of party involvement, Clerk White revived the previous request to count absentee ballots at the precinct rather than the central count. Chairman Kendall seconded it. The motion failed 2-1 with Vice Chairman Perez dissenting. Clerk White then asked the Board to consider two resolutions to address the lack of individuals to conduct central count.

- X. Resolution 14-14: Students Permitted to Work at Central Count Location:** Madam Clerk stated this resolution would allow 16-17 year old high school students to work as a counter on Election Day, similar to their work as a precinct judge or clerk. This resolution does not require a unanimous vote. Clerk White motioned to approve resolution. Chairman Kendall seconded. It passed unanimously.
- XI. Resolution 15-14: Central Count Courier Consolidation:** Madam Clerk introduced the resolution noting state law permits the Board to send one courier out to deliver lists of absentee voters rather than a bi-partisan team. She added that the list is from the Indiana Statewide Voters Registration System and is unlikely to be manipulated in any way because couriers do not have access to this system to generate any list. Director Nussmeyer stated that there are two lists; one is sealed in the ballot transfer case and the second list is delivered by the couriers. Clerk White made a motion to adopt Resolution 15-14; Chairman Kendall seconded. It passed unanimously.
- XII. Polling Site Changes:** Madam Clerk stated that it is the responsibility of the Mayor to select the polling locations pursuant to state law. She declared that there are changes that occur from the Primary Election to the General Election. Director Nussmeyer informed the board of the name changes of several polling locations. She explained that there are also retired polling locations that are no longer in service. Signs will be made available for the changed or retired locations. Clerk White shared the Board of Voters Registration mailed postcards to the impacted voter and encouraged everyone to call (317) 327-5100 for information. The online Voter Information Portal (VIP) was fully operational and includes providing polling locations as well.
- XIII. Other Business:** Madam Clerk reminded the Board that early voting continues through noon, Monday, November 3. Early voters should know there may be parking challenges as pay lots near the building may be impacted by construction and parking meters are to be paid on Saturday. She also noted the deadline to submit an application for absentee ballots by mail Monday, October 27. Director Nussmeyer alerted the Board that all open campaign finance committees timely filed their pre-general election reports and no additional action would be required by the Board.
- XIV. Recess.** Clerk White made a motion for the Board to go in to recess until the public test concludes. Vice-Chairman Perez seconded it. The motion passed unanimously.

**XV. Conclusion of Public Test:** Proxies for the Board reconvened the meeting at 11:50AM. Janet Buchanan with RBM provided the canvassing instructions. All of the necessary paperwork for the public test was reviewed and the results indicated a successful public test of voting equipment.

**XVI. Adjournment:** The meeting was adjourned at 1:34PM.

**Signed: 11/17/2014**

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Chairman, Cody Kendall

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Vice Chairman, Vincent I. Perez

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Secretary, Elizabeth L. White